

INTEROFFICE MEMO

DATE: April 16, 2003

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FROM: **RANDY SCOTT**, Division Chief
Land Use Services Department, Advance Planning Division

TO: **NARESH VARMA**, P.E., Chief
Department of Public Works, Environmental Management Division

File: Crystal Creek Road/ Yard 16/ W.O. #TA0957

SUBJECT: YARD 16 - CEQA CATEGORICAL EXEMPTION FOR ROAD IMPROVEMENTS TO
CRYSTAL CREEK ROAD IN THE LUCERNE VALLEY AREA

I have reviewed, for California Environmental Quality Act (CEQA) compliance, the San Bernardino County Department of Public Works' proposal to improve approximately 1.92 miles of paved road in the Lucerne Valley area. The two (2) specific segments of Crystal Creek Road: 1) from 1.0 mile north of the BNSF railroad, northerly 1.2 miles and, 2) 2.9 miles north of the BNSF railroad, northerly to State Highway 18, are shown on the attached vicinity maps. Improvements will include rehabilitation with pulverization and overlay with AR4000 asphalt concrete on the existing paved road. All work will be performed within the existing rights-of-way. Estimated start date for this project is July 1, 2003, and it will take an estimated four (4) weeks to complete.

Based on a review by the Department of Public Works' Ecologist, dated January 30, 2003, it has been determined that the road lies within the distributional range of the desert tortoise (*Gopherus agassizii*), a federally and state listed threatened species, and Mojave ground squirrel (*Spermophilus mojavensis*), a state listed threatened species. However, there is no indication that the project will adversely impact any of the area's species of special protected status because the project will not extend beyond the existing road limits. Therefore, the recommendations are: 1) impact avoidance procedures (attached), which are written materials that detail the proper procedures to deal with a tortoise on site, need to be implemented for this project following the procedures/protocols of the U.S. Fish and Wildlife Service and the California Department of Fish and Game, and 2) desert tortoise poster signs shall be provided to the construction crew by the Department of Public Works, Environmental Management Division, along with the phone number of the Department's Ecologist to contact for instructions in the event that tortoises are encountered. Avoidance and minimization measures shall be explained in detail to the Contractor and all involved parties prior to executing the contract.

It is my opinion that the proposed improvements to Crystal Creek Road qualifies for a Class 1 Categorical Exemption under Section 15301(c) of the CEQA Guidelines. The Class 1 Exemption allows maintenance, repair, or minor alteration of existing facilities with negligible expansion of the existing use.

To complete the exemption process, I recommend that a Notice of Exemption be filed with the Clerk of the Board.

RS:KR/CrystalCreekRoadCatEx

Attachments

cc: Patrick Egle, Advanced Planning, Land Use Services Department
Chris Saed, Transportation Design Division, Public Works Department
Kelly A. Rozich, Environmental Management Division, Public Works Department

CRYSTAL CREEK ROAD IMPROVEMENT PROJECT
IMPACT AVOIDANCE PROCEDURES

Education

1. All persons employed on this construction project will receive these educational instructions, regarding the desert tortoise, before performing on-site work. Because there are no permits issued, currently, for any person employed or contracted with The County of San Bernardino, when a tortoise crosses into the project site work must stop. There are severe penalties, of the Federal Endangered Species Act and the California Endangered Species Act, if this does not occur. Employees are hereby notified that they are **not** authorized to handle or otherwise move desert tortoises encountered on the project site.

Handling a Tortoise

2. No person is authorized to handle desert tortoise without explicit permission from the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (Service). However, subsequent interpretation by the Service, August 1999, allows non-qualified persons to carefully remove a tortoise from an **immediate life threatening** position (i.e., attempting to cross a highway with active traffic which could harm the tortoise or heading for the edge of an auger hole or excavation to a nearby position of some form of safety). In removal situations, protection should be used to avoid direct contact and infecting a tortoise with a pneumonia virus common in humans or becoming infected with something the tortoise may be carrying. The tortoise should be lifted using both hands, and holding the left and right side of the carapace (back-side of the tortoise), keeping the tortoise level and reasonably close to the ground or placed in a clean pasteboard box and gently moved out of harm's way and immediately released. It is essential to avoid frightening the tortoise causing loss of body fluids.

Pre-Construction/Construction Activities

3. Workers will inspect beneath each vehicle before moving it. If a desert tortoise is present, the worker will carefully move the vehicle only when necessary and when moving the vehicle would not injure the desert tortoise. Alternatively, the worker will wait for the desert tortoise to move from under the vehicle or contact the Department of Public Works' ecologist for instruction.
4. The area of disturbance shall be confined to the smallest practical area, considering topography, placement of facilities, public health and safety, and other limiting factors.
5. All food related trash items shall be placed in a container that precludes entry by wildlife, such as common ravens and coyotes. Food related trash shall be regularly removed from the construction site and disposed of at an approved refuse disposal site. Workers shall refrain from deliberate feeding of wildlife.
6. All grindings and asphaltic-concrete waste shall be hauled away off-site.
7. Vehicles and equipment shall stay on designated roads to avoid crushing vegetation and burrows.
8. No dogs are permitted on or near the project site.

Miscellaneous

9. If the County, its employees, contractors or agents kills or injures an individual of a listed species, or finds any such animal dead, injured, or entrapped, the County will immediately notify the Service and the CDFG. All reasonable efforts will be made to allow any entrapped animals to escape. Any dead or injured animal will be turned over to CDFG and a written report detailing the date, time, location and general circumstances under which it was found will be submitted to CDFG no later than three (3) business days following the incident.
10. The County will allow representatives from the Service and CDFG access to the project site to monitor compliance with the terms and conditions of the Federal Endangered Species Act and the California Endangered Species Act.

Desert Tortoise



Desert Tortoise

Desert Tortoise Habitat



Creosote Scrub/ Tortoise Habitat

Desert Tortoise Season

**MATING MAY OCCUR ANYTIME
AFTER EMERGENCE FROM HIBERNATION IN MARCH
UNTIL THE BEGINNING OF HIBERNATION IN OCTOBER.
MOST MATING ACTIVITY IS IN THE SPRING.**

